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SEP 28 2006

OFFICE OF PETITIONS

DARBY & DARBY P.C.  
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NEW YORK NY 10150-5257

In re Application of :  
Takahashi, et al. : DECISION ON PETITION  
Application No. 09/998,621 :  
Filed: November 30, 2001 :  
Docket No.: 3404/0K075 :

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed May 9, 2006.

The petition is hereby GRANTED.

The application was held abandoned September 7, 2005 for failure to timely submit a proper reply to the non-final Office action mailed June 6, 2005. The non-final Office action set a three (3) month statutory period for reply. Notice of Abandonment was mailed February 27, 2006. A petition under 37 CFR 1.181 was filed March 24, 2006 and dismissed April 27, 2006.

Petitioners allege non-receipt of the Office communication mailed June 6, 2005.

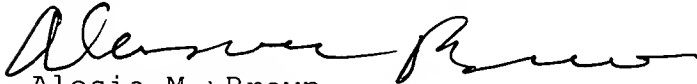
In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioner has provided a copy of the docket record where the non-final Office action would have been entered had it been received along with a statement from petitioner that a search of the docket record and file jacket indicated that the non-final Office action was not received.

In view of the evidence presented, the Notice of Abandonment is hereby **VACATED** and the Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the technical support staff of Group Art Unit 3727 for mailing of new Notices. The time period for response will be set to run from the date the new Notices are mailed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

A handwritten signature in cursive script, appearing to read 'Alesia M. Brown', written in black ink.

Alesia M. Brown  
Petitions Attorney  
Office of Petitions